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FILED
JAN 29 1973
MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM 1972

No.

STATE OF NEW JERSEY,

Respondent,

vs.

WOODROW SCOTT,

Petitioner.

MEMORANDUM OPPOSING CERTIORARI

BRUCE M. SCHRAGGER,
Mercer County Prosecutor,
Attorney for Respondent,
Mercer County Court House,
Trenton, New Jersey 08607.

Of Counsel:

WILBUR H. MATHESIUS,
First Assistant Prosecutor.

Adams Press Corp., 11 Commerce Street, Newark, N. J.—Market 3-8611-12

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Respondent represents to the Court as follows:

1. Petitioner, after trial by Jury, was convicted for the offense of Possessing Lottery Slips, contrary to Section 2A:121-3 of the New Jersey Statutes on March 10, 1971.

2. On July 16, 1971, Petitioner was sentenced to serve a period of one year confinement in the Mercer County Workhouse and was fined $1,000 (one thousand dollars).

3. Petitioner then appealed subject conviction to the Appellate Division of the Superior Court of New Jersey, which appeal was denied on June 16, 1972.

4. Thereafter, Petitioner filed a Petition for Certification and Request for Leave to Appeal with the Supreme

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Court of New Jersey urging substantially similar grounds as those pressed before, and adversely denied, by the Appellate Division. An opinion was rendered and judgment entered on September 25, 1972, by the Supreme Court of New Jersey.

5. Subsequent to the denial of the Petitioner's sought-after relief by the Supreme Court of New Jersey, Petitioner made application to the Honorable William J. Brennan, Jr. for a stay of execution of the previously imposed sentence of imprisonment pending filing and disposition of Writ of Certiorari. An Order denying this application was entered on October 20, 1972. Petitioner then failed to present himself for the commencement of sentence. This failure resulted in the formal revocation of bail and the issuance of a bench warrant for his immediate arrest on November 14, 1972. Petitioner remains a fugitive.

6. The petition pending before this Court was filed on January 2, 1973, more than ninety days since entry of judgment by the Supreme Court of New Jersey, and the period for applying for a Writ of Certiorari has not been extended by a Justice of this Court (U.S.C., Title 28, Sec. 2101(c) and Rule 22 of this Court).

THEREFORE, it appears that Petitioner's application for a Writ of Certiorari is out of time and should be denied.

Respectfully submitted,

BRUCE M. SCHRAGGER,
Mercer County Prosecutor,
Attorney for Respondent.

Of Counsel:

WILBUR H. MATHESIUS,
First Assistant Prosecutor.

January 24, 1973

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